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10/583,273

06/16/2006

Tadashi Yoshikawa

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EXAMINER

VO, CECILE H

ART UNIT

PAPER NUMBER

2169

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,273	<b>Applicant(s)</b> YOSHIKAWA, TADASHI	
	<b>Examiner</b> CECILE VO	<b>Art Unit</b> 2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-19, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is in response to the Applicants' amendment received on 06/22/2009.

#### **Claim Status**

2. Claims 1-19, 25 and 26 are currently presenting for examination as amended on 06/22/2009, with claims 1, 2, 7, 12, 13, 14, 15, 25 and 26 being independent. Claims 20-24 are canceled. Claims 1, 2, 7, 12, 13-15, 25 and 26 are currently amended.

#### **Claim Rejections – 35 USC §101**

3. Claims 20-24 are canceled. Therefore, the rejection of claims 20-24 under 35 U.S.C 101 is withdrawn.

4. This action has been made **FINAL**.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 2, 12, 13, 14, 15, 25 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 14 include the limitation wherein "*the acquired data provided with the folder name or the file name is not the image data from which the piece of code information is extracted*" and the Applicant's amendment points to page 4, line 22 to page 5, line 2 in the original specification as providing support for the limitation. However, the cited refer specifically to generate an arbitrary name of a folder or a file based on extracting the code information. Wherein, the code information corresponding to a code from image data obtained by picking up an image including the code. Nowhere in the cited does Applicant suggest "*the acquired data provided with the folder name or the file name is not the image data from which the piece of code information is extracted*". Consequently, the Examiner considers Applicant was not in possession of the claimed invention at the time of the filing date.

Claim 2 includes the limitation wherein "*the acquired data provided with the folder name or the file name is not the image data for extracting the piece of code information by the extraction means*", is not supported by the original disclosure. Examiner has scanned the specification, but found no support for the limitation as shown in the claim. Consequently, the Examiner considers Applicant was not in possession of the claimed invention at the time of the filing date.

Claims 12 and 25 include the limitation wherein "*the stored data provided with the folder name or the file name is not the image data from which the code is acquired*", is not supported by the original disclosure. Examiner has scanned the specification, but found

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no support for the limitation as shown in the claims. Consequently, the Examiner considers Applicant was not in possession of the claimed invention at the time of the filing date.

Claims 13 and 26 include the limitation wherein "*the data on which the predetermined processing is performed is not the image data from which the code is acquired*", is not supported by the original disclosure. Examiner has scanned the specification, but found no support for the limitation as shown in the claims. Consequently, the Examiner considers Applicant was not in possession of the claimed invention at the time of the filing date.

Claim 15 includes the limitation wherein "*the acquired data provided with the folder name or the file name is not the image data for extracting the piece of code information by the controller*", is not supported by the original disclosure. Examiner has scanned the specification, but found no support for the limitation as shown in the claim.

Consequently, the Examiner considers Applicant was not in possession of the claimed invention at the time of the filing date.

Claims 3-6, 8-11 and 16-19 are rejected for the same reason, due to their dependence on the above rejected claims.

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7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 2, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 14 and 15 recites "*the data*" in line 8 of claim 1, line 10 of claim 2, line 9 of claim 14 and lines 11 of claim 15, which are insufficient antecedent basis for this limitations in the claim.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-3, 5-16 and 18, 19 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Irie, Publication Number US 2003/0122943.

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Regarding claim 1, Irie discloses a data storage device having a storage means for storing acquired data in a hierarchical structure, comprising:

an image pickup unit for picking up an image (e.g. an image-pickup apparatus includes an image-pickup means for taking a picture of an object to obtain image data of the object, §0031, lines 1-3);

an extraction means for extracting a piece of code information corresponding to a code which is possessed on said image from a piece of image data acquired by picking up an image having the code by the image pickup unit (e.g. when the user inputs a desired filename of tune or sound by operating the operation switch, the tune code or the sound code is determined from the filename input by the user, §0098, lines 5-8); and

a name generation means for generating a folder name or a file name of the acquired data stored by the storage means relating to the piece of image data based on the piece of code information extracted by the extraction means (e.g. the file of the pickup image is named "tune code+serial number" or "sound code+serial number" using the tune code or the sound code determined. In other words, if a first image in JPEG format is taken with the tune code "005B" selected, then the file of the first image is named "005B0001.JPG", and the file of a fifth image is named "005B0005.JPG". The image data held in the DRAM is stored in the flash memory with the filename determined, §0103, lines 1-10),

wherein the acquired data provided with the folder name or the file name is not the image data from which the piece of code information is extracted (e.g. the filename

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determined is just required to include first eight characters respectively corresponding to image files, and the serial number included in the file name may be intermittent or continuous in the order in which images are taken in, §0104, lines 1-5).

Regarding claim 2, Irie discloses a data storage device having a storage means for storing acquired data in a hierarchical structure, comprising:

an image pickup unit for picking up an image (e.g. an image-pickup apparatus includes an image-pickup means for taking a picture of an object to obtain image data of the object, §0031, lines 1-3);

a code recognition unit having a table in which pieces of code information is respectively corresponded to a plurality of pieces of image data (e.g. Figure 12);

an extraction means for extracting a piece of the code information to a code which is possessed on said image, from the table, corresponding to a piece of the image data acquired by picking up an image having the code by the image pickup unit (e.g. when the user inputs a desired filename of tune or sound by operating the operation switch, the tune code or the sound code is determined from the filename input by the user, §0098, lines 5-8); and

a name generation means for generating a folder name or a file name of the acquired data stored by the storage relating to the piece of the image data based on the piece of the code information extracted by the extraction means (e.g. Filenames of image files in Figure 14. Wherein, the file of the pickup image is named "tune code+serial number" or "sound code+serial number" using the tune code or the sound



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code determined. In other words, if a first image in JPEG format is taken with the tune code "005B" selected, then the file of the first image is named "005B0001.JPG", and the file of a fifth image is named "005B0005.JPG". The image data held in the DRAM is stored in the flash memory with the filename determined, §0103, lines 1-10),

wherein the acquired data provided with the folder name or the file name is not the image data for extracting the piece of code information by the extraction means (§0104, lines 1-5).

Regarding claim 3, Irie discloses the data storage device, further comprising a determination means for determining whether or not the piece of the code information is extracted by the extraction means, wherein when the determination means determines that the piece of the code information is not extracted by the extraction means (e.g. it is judged which filename is selected, §0098), the name generation means generates the folder name or the file name relating to the piece of the image data based on predetermined information (§0103, lines 5-8).

Regarding claim 5, Irie discloses the data storage device, further comprising:  
a folder generation means for generating in the storage means a folder of the folder name generated by the name generation means ( e.g. the image data held in the DRAM 205 is stored in the flash memory 204 with the filename determined at Step S103, §0103, lines 7-9) ; and

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a name changing means for changing the folder name or the file name relating to data stored in the storage means, to the folder name or the file name generated by the name generation means (e.g. the filename determined at Step S109 is just required to include first eight characters respectively corresponding to image files, and the serial number included in the filename may be intermittent or continuous in the order in which images are taken in, §0104, lines 1-5).

Regarding claim 6, Irie discloses the data storage device, further comprising a reception means for receiving a selection of a first or second processing, wherein when the reception means receives the selection of the first processing, the folder generation means generates in the storage means the folder of the folder name generated by the name generation means, and when the reception means receives the selection of the second processing, the name changing means changes the folder name or the file name relating to the data stored in the storage means, to the folder name or the file name generated by the name generation means (e.g. when the camera receives the photographing conditions selected, camera control is exercised to adjust the optical mechanism to meet the photographing conditions, §0101, lines 1-4).

Regarding claim 7, Irie discloses an information transmitter that transmits information to outside, comprising:

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an image pickup unit for picking up an image (e.g. an image-pickup apparatus includes an image-pickup means for taking a picture of an object to obtain image data of the object, §0031, lines 1-3);

a code acquisition means for acquiring a code which is possessed on said image from a piece of image data obtained by picking up an image having the code by the image pickup unit (e.g. The photographing condition defines condition on which a picture is taken to obtain image data., §0097, lines 12-14);

an analyzing means for analyzing the code acquired by the code acquisition means and acquires a piece of code information corresponding to a code acquired by the code acquisition means (e.g. It is judged which filename is selected, §0098); and

a transmission means for transmitting to outside the piece of code information acquired by the analyzing means (e.g. When the tune code or the sound code is determined, the sound source section 4 is instructed to give a demonstration of outputting the tune or the sound based on the code determined. When it is judged that a predetermined time has lapsed; YES, the sound source section 4 is instructed to cease the demonstration, §0099).

Regarding claim 8, Irie discloses the information transmitter, further comprising:

a display means for displaying the piece of code information acquired by the analyzing means (e.g. The image output circuit 206 is for converting the image data held in the DRAM 205 to a video signal, and is connected to LCD 207 for displaying an

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image based on the video signal and to a video output terminal 208 for outputting the video signal, §0088, lines 4-8); and

an instruction reception means for receiving an instruction whether or not the piece of code information displayed on the display means is transmitted, wherein the transmission means transmits the piece of code information when an instruction to transmit the piece of code information is received by the instruction reception means (e.g. reproducing means for reproducing an image based on the image data identified by the image-data identifying data stored in the identifying-data storing means and for outputting sound based on the sound data identified by the sound-data identifying data stored in the identifying-data storing means, §0031, lines 17-22).

Regarding claim 9, Irie discloses the information transmitter, further comprising an encoding means for encoding the piece of code information acquired by the analyzing means, wherein the transmission means sends the piece of code information encoded by the encoding means (e.g. the image output circuit is for converting the image data held in the DRAM to a video signal, and is connected to LCD for displaying an image based on the video signal and to a video output terminal for outputting the video signal, §0088, lines 4-8).

Regarding claim 10, Irie discloses the information transmitter, further comprising:  
a plurality of analyzing means respectively corresponding to different codes (§0098); and

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a selection means for selecting, based on the code acquired by the code acquisition means, an analyzing means to analyze the code from the plurality of analyzing means (§0037, lines 16-18), wherein

the analyzing means selected by the selection means analyzes the code acquired by the code acquisition means (§0098).

Regarding claim 11, Irie discloses the information transmitter, further comprising a storage means for storing the code acquired by the code acquisition means and the piece of code information acquired by analyzing the code by the analyzing means, for each analyzing means selected by the selection means (§0033).

Regarding claim 12, Irie discloses a data storage system, comprising:

an information transmitter that transmits information to outside (e.g. digital camera, §0087, lines 1-2), comprising:

an image pickup unit for picking up an image (e.g. an image-pickup element obtains image data of the object, §0064, line 5);

a code acquisition means for acquiring a code which is possessed on said image from a piece of image data obtained by picking up an image having the code by the image pickup unit (e.g. when selected, a tune code or a sound code is specified from the file name selected, §0098, lines 3-5);

an analyzing means for analyzing the code acquired by the code acquisition means and acquires a piece of code information corresponding to a

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code acquired by the code acquisition means (e.g. when the user inputs a desired filename of tune or sound by operating the operation switch, the tune code or the sound code is determined from the filename input by the user, §0098, lines 5-8); and

a transmission means for transmitting to outside the piece of code information acquired by the analyzing means (e.g. when the tune code or the sound code is determined, the sound source section is instructed to give a demonstration of outputting the tune or the sound based on the code determined, §0099, lines 1-4); and

a data storage device for storing data in a hierarchical structure (e.g. flash memory, §0103, lines 10-11), the data storage device comprising:

a reception means for receiving the piece of code information transmitted from the information transmitter (§0103, lines 4-13); and

a name generation means for generating a folder name or a file name relating to the data, based on the piece of code information received by the reception means (§0103, lines 1-10).

Regarding claim 13, Irie discloses an information processing system, comprising:

an information transmitter that transmits information to outside (e.g. digital camera, §0087, lines 1-2), comprising:

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an image pickup unit for picking up an image (e.g. an image-pickup apparatus includes an image-pickup means for taking a picture of an object to obtain image data of the object, §0031, lines 1-3);

a code acquisition means for acquiring a code which is possessed on said image from a piece of image data obtained by picking up an image having the code by the image pickup unit (§0097, lines 12-14);

an analyzing means for analyzing the code acquired by the code acquisition means and acquires a piece of code information corresponding to a code acquired by the code acquisition means (§0098); and

a transmission means for transmitting to outside the piece of code information acquired by the analyzing means (§0099); and

an information processor for performing a predetermined processing based on the piece of code information transmitted from the information transmitter (e.g. the camera section<sup>3</sup> is provided with CPU, §0087, line 4),

wherein the data on which the predetermined processing is performed is not the image data from which the code is acquired (e.g. the filename determined is just required to include first eight characters respectively corresponding to image files, and the serial number included in the file name may be intermittent or continuous in the order in which images are taken in, §0104, lines 1-5).

Claims 14-16 and 18-19 are similar to claims 1-3, 5 and 6; therefore, claims 14-16 and 18-19 are rejected by the same reasons as discussed above.

Claims 20-24 are canceled.

Claims 25-26 are similar to claims 12-13; therefore, claims 25-26 are rejected by the same reasons as discussed above.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irie, Publication Number US 2003/0122943 above, and further in view of Hatanaka, US Patent Number 6,438,320 B1.

Regarding claims 4 and 17, Irie does not explicitly disclose:

reporting a message that the piece of code information is not extracted, when determining accordingly.

Hatanaka teaches: the file structure in the memory area of the card is examined and a check is made to see if the file of the file name exists in the route directory. If the file of such a file name exists, since the director of the same name cannot be formed, and a message to notify the user of the reason is displayed on a display apparatus



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(Hatanaka: col. 6, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify method of storing and reproducing data in an image-pickup apparatus discloses by Irie to include reporting a message as shown by Hatanaka in order to manage the file structure of a storage device.

### ***Response to Arguments***

13. Applicant's arguments filed 06/22/2009 have been fully considered but they are not persuasive.

In response to Applicant's argument "*Irie fails to expressly disclose extracting code information corresponding to a code possessed on an image having the code and picked up by an image pickup unit*". The Examiner respectfully disagrees.

Base on the amended claim 1, Examiner has cited particular columns and line numbers in the reference applied to claim 1 as indicated above for the convenience of the Applicant (i.e. an extraction means for extracting a piece of code information corresponding to a code which is possessed on said image from a piece of image data acquired by picking up an image having the code by the image pickup unit (e.g. when the user inputs a desired filename of tune or sound by operating the operation switch, the tune code or the sound code is determined from the filename input by the user, §0098, lines 5-8).

Applicant also argued that: *the "code" from the filename is not a code possessed on an image picked up by the image pickup unit.*

The Examiner respectfully submits that the limitation '*the "code" from the filename is not a code possessed on an image picked up by the image pickup unit*' is unclear; the indefinite term "*code*" should be clarified to eliminate the ambiguity of claim languages.

In response to Applicant's argument "*the acquired data provided with the folder name or the file name is not the image data from which the piece of code information is extracted*".

The Examiner respectfully submits that the added limitations in the amended claims are unclear and are addressed in the rejection under 112 first paragraph above.

It is noted that the Applicants' arguments only state that the cited reference fail to teach or suggest limitations recited in the amended claim, but do not appear to present any clarity or submit that the limitations are fully supported by the originally-filed specification. Applicant must discuss the references applied against the claim, explaining how the claim avoids the references or distinguish from them. For this reason, Examiner has full latitude to interpret each claim in the broadest reasonable sense (in re Morris, 127 F.3d 1048, 105455, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997)). Examiner references prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning. Finally, this application is now considered. Therefore, the rejection of the claims under 35 USC 102(e) is maintained.

The 103 rejections to dependent claims 4 and 17 are also maintained because independent claims are representative of claims 4 and 17.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CECILE VO whose telephone number is (571)270-3031. The examiner can normally be reached on Mon - Thu (9AM - 5:00PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on 571-272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 19, 2009  
/Cam Y Truong/  
Primary Examiner, Art Unit 2169

/Cecile Vo/  
Examiner  
Art Unit 2169